

Chapters 477 NAC 14 through 19 apply to the following: Parents/Caretaker Relatives, Children/Children in an IMD/Children and Young Adults Eligible for Non-IV-E Assistance, Pregnant Women, 599 CHIP, Former Wards, Hospital Presumptive

CHAPTER 16-000 INCOME FOR MAGI-BASED PROGRAMS

16-001.01 MAGI Income: The sum of MAGI-based income for each member of the applicant's/client's household, with the following exceptions (for examples, see Appendix 477-000-006 and 477-000-011):

1. Income of an individual who is included in the household of his/her natural, adopted, or step parent and is not expected to file a tax return for the taxable year in which eligibility for Medicaid is being determined is not included in household income whether or not the individual files a tax return.
2. Income of a tax dependent, other than a spouse or biological, adopted, or step-child, who expects to be claimed as a tax dependent by another taxpayer included in the household and is not expected to file a tax return is not included.
3. Cash support provided by a tax filer to a claimed tax dependent, other than a spouse or biological/adopted/step-child, is not included.

16-001.01A Income Counted for Children Who Expect to File but Who Do Not Expect to Be Claimed: When a child under nineteen (19) years old resides with his/her parent(s) and expects to file a tax return but does not expect to be claimed as a tax dependent by his/her parents(s), non-filer rules shall be applied when constructing the child's household size. The income of the child's parents and siblings living with him/her counts in the child's budget.

16-001.01B Excluded Income for MAGI:

1. Income exclusions that are allowed under the Internal Revenue Code (see Appendix 477-000-008 for allowable deductions);
2. An amount received as a lump sum is counted only in the month received;
3. Scholarships, awards, or fellowship grants used for education, but not living expenses;
4. Child support;
5. Veterans benefits (this does not include military retirement);
6. Workers' Compensation; and
7. Other excluded income, see Appendix 477-000-007.

16-001.01C Excluded Income for Native American/Alaskan Native applicant/client:

1. Distributions from Alaska Native Corporations and Settlement Trusts;
2. Distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior;
3. Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from
 - a. Rights of ownership or possession in any lands from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior; or
 - b. Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;
4. Distributions resulting from real property ownership interests and related to natural resources and improvements
 - a. Located on or near a reservation or within the most recent boundaries of a prior Federal reservation; or
 - b. Resulting from the exercise of federally-protected rights relating to such real property ownership interests;
5. Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable Tribal Law or custom; and
6. Student financial assistance provided under the Bureau of Indian Affairs education programs.

16-001.02 Monthly Income: Current monthly household income and family size shall be used for individuals who have been determined financially eligible for Medicaid. For family size see 477 NAC 15-000.

16-001.03 Reasonably Predictable Change in Future Income and Family Size: In determining current monthly or projected annual household income and family size, the Department shall include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income or family size.

16-001.04 Five Percent Federal Poverty Level Disregard: A disregard of five percent (5%) of the Federal Poverty Level (FPL) shall be applied when determining eligibility of an individual for medical assistance under the eligibility group with the highest income standard under which the individual may be determined eligible using MAGI-based methodologies.

16-001.05 Reasonably Compatible Regarding Income: Information obtained through an electronic data match must be considered reasonably compatible with income information provided by or on behalf of an individual if both are either above, at, or below the applicable income standard. See Verification Plan at Appendix 477-000-004 for the applicable income standard.

16-001.06 Reasonable Explanation: If information obtained from an electronic data source is not reasonably compatible with an applicant's/client's self-attestation, the applicant/client shall be asked for a reasonable explanation. See Verification Plan at Appendix 477-000-004.

16-001.07 Earned Income: Earned income is money received from wages, tips, salary, commissions, and profits from activities in which an individual is engaged as a self-employed person or as an employee. See Appendix 477-000-007 for income chart regarding taxable income.

16-001.07A Contractual Income:

1. Income paid on a contractual basis is prorated over the number of months covered under the contract, even if the client is paid in fewer months than the contract covers.
2. Income received intermittently is prorated over the period it is intended to cover if the income is expected to continue.

16-001.07B Disregards for Self-Employment: All operating expenses related to producing goods or services and without which such goods or services could not be produced are deducted from gross income.

16-001.07C Operating Expenses – Farm Income: All expenses related to farm income are considered operating expenses and are allowable deductions.

16-001.08 Unearned Income: Unearned income is any cash benefit that is not the direct result of labor or services performed by the individual as an employee or a self-employed person. See income chart at Appendix 477-000-007.

16-001.08A Spousal Support: Spousal support (alimony) received is considered unearned income. See Appendix 477-000-006 for budgeting.

16-001.08B Delay in Counting RSDI Increase: After the annual Retirement, Survivors, and Disability Insurance (RSDI) cost of living adjustment (COLA), if a client would go from Medicaid only status to Medicaid excess because his/her income exceeds the Federal Poverty Level, the current RSDI amount shall be used. The month after the month that the new FPL figures are published, the client's eligibility shall be determined by comparing the increased RSDI benefit to the new FPL guidelines. The delayed COLA provision applies only if the RSDI increase would cause the client to have excess income. If there is an increase in other unearned income or the client begins receiving other unearned income in the same month as the COLA in RSDI benefits, the delayed COLA provisions do not apply.

16-001.08C Intercepted, Withheld or Garnished Income: If a client's wages or unearned income is being garnished or intercepted, the gross amount of income before garnishment shall be counted.

16-001.09 Deeming Income for Sponsors of Aliens

16-001.09A Sponsors for Aliens: One hundred percent (100%) of the income of a sponsor (and sponsor's spouse, if living with the sponsor) shall be considered when determining the eligibility of an alien who applies for Medicaid if the sponsor has signed an affidavit of support under Section 213A of the Immigration and Nationality Act. The sponsor's income will be considered available to the alien until one or more of the following circumstances apply:

1. The individual becomes a U.S. citizen;
2. The individual has worked forty (40) qualifying quarters of coverage as defined under Title II of the Social Security Act, or can be credited with the qualifying quarters as provided under Section 435 and the alien did not receive any federal means tested public benefit during that time period. This provision does not apply to restricted medical assistance;
3. The individual is pregnant (including 60 days post-partum); or
4. The individual is under age 19.

16-001.09B Sponsor of More than One Alien: When an individual is a sponsor for two or more aliens who are living in the same home, the amount of deemed income of the sponsor (and the sponsor's spouse, if living with the sponsor) is divided equally among the aliens. When an individual sponsors several aliens but not all apply for Medicaid, the sponsor's total deemable income is applied to the needs of the aliens who apply for Medicaid.

16-001.09C Deeming Exception: If a sponsored immigrant demonstrates that s/he or his/her child(ren) have been battered or subjected to extreme cruelty by a spouse, a parent, or by a member of the spouse's or parent's family who is residing in the same household as the alien, deeming may be waived if a judge, an administrative law judge, or the U.S. Citizenship and Immigration Services (USCIS) recognizes the battery or cruelty.

16-001.09D Alien Duties: As an eligibility requirement, an alien is responsible for

1. Providing income information from the sponsor; and
2. Obtaining the necessary cooperation from the sponsor.

If an alien does not provide the necessary information, s/he is not eligible for Medicaid.

16-001.10 Potential Income: As a condition of Medicaid eligibility, the Department shall require clients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled.

Annuities, pensions, retirement, and disability benefits include, but are not limited to, veterans' compensation and pensions, Social Security benefits, railroad retirement benefits, and unemployment compensation.

A client and/or any responsible relative, such as a spouse or parent, is required to apply for any non-Medicaid benefits for which s/he appears to be entitled within 60 days of the date the client is notified of the requirement.

A responsible relative shall be referred for any potential benefit, but there is no sanction applied to the child(ren)'s Medicaid case if the responsible relative fails or refuses to apply.

Determination of eligibility shall not be delayed pending determination of entitlement for potential benefits, so long as the client/responsible relative has applied for such benefits within the 60-day timeframe.

16-001.10A Refusal to Apply for Potential Income: A client is expected to apply for and accept non-Medicaid benefits promptly after the client's apparent entitlement to such benefits have been discussed.

If a client's non-Medicaid benefit is terminated for noncompliance, s/he shall be given ten days to make contact to reestablish the benefit. If no contact is made within ten days, Medicaid eligibility cannot be determined.

Income of responsible relatives is still considered in determining the Medicaid eligibility of the client.

16-001.11 Verification of Income: For verification of income see the Verification Plan listed at Appendix 477-00-004. If paper documentation is required, verification of income consists of at least the following:

1. The source of the income,
2. The date paid or received,
3. The period covered by the payment or benefit, and
4. The gross amount of payment or benefit.

16-001.12 If Paper Documentation is Required for Income Verification

16-001.12A Income Verification

16-001.12A1 At Initial Application: One month of current income is used to determine initial eligibility. Income is converted for weekly and bi-weekly income.

Note: Once eligibility has been determined, no verification is required during the continuous eligibility period.

16-001.12A2 At Renewal: Income must be verified every 12 months.

1. Regular income must be verified using one month's income at a minimum.
2. Irregular income must be verified using the three most recent months, if available.

16-001.12B Income Conversion: Income is converted for weekly and bi-weekly income. This figure is used to project Medicaid eligibility unless

1. There was a significant change in the income of the previous three months; or
2. A significant change is anticipated during the projected 12-month period.

16-001.12C Self-Employment and Farming Income: If electronic data sources are not available, the most recent 1040 or bookkeeping records shall be used. See Verification Plan at Appendix 477-000-004 to determine when paper documentation is required.

16-001.13 Terminated Income: When an individual engages in different types of self-employment, it is not considered a termination of income if the individual stops one type of work. See Appendix 477-000-004.

16-001.14 Retroactive Medical Eligibility: To determine retroactive medical eligibility, each month's actual income shall be used unless an electronic data source is available and is reasonably compatible with the individual's attested income.